MOHD. MUSTAFA SHUIB & ORS.

v.

ZAKARIA SUBRI & ANOR.

HIGH COURT MALAYA, ALOR SETAR
KC VOHRAH J
[CIVIL REVISION NO. 13-01-89]
1 APRIL 1990

CIVIL PROCEDURE: *Value limit of subject matter - Section 65(1) of the Subordinate Courts Act 1948 - RM100,000 - Section 69 of the Subordinate Courts Act - Whether this limit of RM100,000 applies irrespective of the number of causes of action in the action or suit - Civil jurisdiction of Sessions Court - Sections 65-74 of the Third Schedule to the Act read with s. 99A - Order 8 of the Subordinate Court Rules, rr. 1, 4(1) and 5(1) - Joinder of causes of action - Two conditions to be satisfied therein - Effect of absence of words "cause of action" in s. 65 - Section 65(3) - Jurisdiction in excess of the value limit by written consent of the parties.*

The question for the determination of the Court was whether this value limit of RM100,000 as stipulated by s. 65(1) of the Subordinate Courts Act 1948 applies only in respect of one plaintiff in an action or suit, or applies irrespective of the number of plaintiffs in the action or suit; and whether it applies to one cause of action in the action or suit or it applies irrespective of the number of causes of action in the action or suit.

The value limit of a subject matter in relation to the civil jurisdiction of the Sessions Court is, under s. 65(1) of the Subordinate Court Act 1948 (the Act), one hundred thousand ringgit where the action or suit in respect of it does not fall outside the jurisdiction of the Court under s. 69 of the Act.

The plaintiffs argued that each co-plaintiff has a separate cause of action and that the value limit of the civil jurisdiction of the Sessions Court is in respect of each cause of action i.e., the Sessions Court had before it three subject matters and the value limit of each subject matter was RM100,000, while the defendant argued that the value limit is tied to the action before the Court, no matter how many causes of action there are.

Held:

[1] There is nothing in ss. 66, 68 and 69 of the Subordinate Courts Act 1948, which detracts from the conclusion that the value limit that is spelt out in s. 65(1) relates to one action or suit before the Sessions Court no matter how many causes of action arise in the action.

[2] Irrespective of whether there is one plaintiff or several plaintiffs or one cause of action or several causes of action in one action or suit before the Sessions Court, the total amount that the Sessions Court may award in respect of all the plaintiffs and causes of action joined in that one action or suit cannot exceed the value limit of RM100,000.

[3] Resort could be had to s. 65(3) of the Act to give the Sessions Court jurisdiction where the value limit of its jurisdiction is expected to be exceeded. Failing agreement, the plaintiffs may apply for the transfer of the action from the Sessions Court to the High Court or they may wish to file the action in the High Court itself. On the other hand several actions may be filled in the Sessions Court and the several actions consolidated for trial under the provisions of O. 8 r. 18 of the Subordinate Court Rules.

[4] Acting in revision the Court remitted the matter to the Judge of the Sessions Court for her to reduce proportionately her several awards to the three plaintiffs so that the total amount does not exceed RM100,000.

Case referred to:
M.J. Probalanandan v. Rajapathar [1951] MLJ 132

Legislation referred to:
Civil Procedure Code, s. 362(iii)
Subordinate Courts Act 1948, ss. 65(1),(3), 66(1), 67, 68, 69, 74, 99A
Subordinate Courts Rules 1980, O. 8, rr. 1, 2(1), 4(1), 5(1), 18

For the plaintiffs - Baldev Bhar; M/s. Syarikat Baldev Bhar
For the defendants - Shyama Nair; M/s. Bala Mahesan
Amicus Curiae - Mayandi; M/s. Mayandi & Panjaram

JUDGMENT

KC Vohrah J:

The value limit of a subject matter in relation to the civil jurisdiction of the Sessions Court is, under s. 65(1) of the Subordinate Courts Act 1948 (the Act), one hundred thousand ringgit where the action or suit in respect of it does not fall outside the jurisdiction of the Court under s. 69 of the Act.

The question is whether this value limit of RM100,000 applies only in respect of one plaintiff in an action or suit, or applies irrespective of the number of plaintiffs in the action or suit; and whether it applies to one cause of action in the action or suit or it applies irrespective of the number of causes of action in the action or suit.

This is the question which appears to be posed by the Judge of the Sessions Court at Kangar when she wrote to the High Court to request for a revision of her judgment.

The learned Judge had held a trial of civil suit 280 of 1981 where three plaintiffs claimed for damages against two defendants for injuries suffered by them. There was a collision between the first defendant's car (which was owned by the second defendant) and the motor-cycle ridden by the first plaintiff. The second plaintiff was a pillion rider on this motor-cycle. Following this collision there was another collision between the first defendant's car and the motor-cycle ridden by the third plaintiff. At the trial there was admission of full liability on the part of the defendants and the learned Judge then proceeded to assess the special and general damages for each of the plaintiffs. She then awarded damages specifically to each of them. She found, however, that the resultant quantum for all the three awards exceeded RM100,000. And she had doubts whether she had exceeded her jurisdiction of the Sessions Court bearing in mind s. 65(1) of the Act.

In the provisions relating to the civil jurisdiction of the Sessions Court - ss. 65 to 74 and the Third Schedule to the Act read with s. 99A - there is no prohibition in regard to the joinder of several causes of action in one action or suit. Order 8 of the Subordinate Court Rules, rr 1, 4(1) and 5(1) amply show how the joinder of causes of action can be made in one action. Rule 4(1) particularly, provides that two or more persons may be joined together in one action as plaintiffs (or as defendants) on two conditions specified therein being satisfied or with leave of the Court. In the present case the plaintiffs and the defendants have been joined under O. 8 r. 4(1) in one civil action having satisfied the two conditions under the rule.

Encik Baldev Singh for the plaintiffs has argued that each co-plaintiff has a separate cause of action and that the value limit of the civil jurisdiction of the Sessions Court is in respect of each cause of action i.e., the Sessions Court had before it three subject matters and the value limit of each subject matter is RM100,000.

But Puan Shyama for the defendant and Encik Mayandi, a senior member of the bar, appearing as *amicus curiae* (and I must thank him for assisting the Court) argue that the value limit is tried to the action before the Court no matter how many causes of action there are.

The argument of Encik Baldev Singh appears attractive and the case of *M.J. Probalanandan v. Rajapathar* [1951] MLJ 132 seems to bear out his argument. In the said case the High Court decided that the expression "subject matter" appearing in s. 362(iii) of the now obsolete Civil Procedure Code meant "cause of action". I cannot however place reliance on the said case as the interpretation given turned on the language used in the said section. And, with respect, I do not think Encik Baldev Singh's argument takes into account the language used in s. 65(1) standing by itself or read in the context of the other provisions of the act relating to the civil jurisdiction of the Sessions Court.

Section 65(1) of the Act reads:

> Subject to the limitations contained in this Act, a Sessions Court shall have jurisdiction to try all actions and suits of a civil nature where the amount in dispute or value of the subject matter does not exceed one hundred thousand ringgit.

The point to note in s. 65(1) is that nowhere in that provision is the expression "cause of action" used. But it is not as though the expression is an alien expression in the Act. In fact in relation to the provisions pertaining to the civil jurisdiction of the Sessions Court it has been deliberately used in one provision, i.e., s. 68. To my mind, therefore, its absence in s. 65 cannot count for nought; its absence is deliberate.

What can be seen in s. 65(1) is that neither the "amount in dispute" nor the "value of the subject matter" is tied to a cause of action. Instead each is tied to "actions and suits of a civil nature". In other words the amount in dispute or the value of the subject matter is connected to the action or suit which is for trial before the Sessions Court. And that this must be so is also borne out by the language of s. 65(3) which ties the amount in dispute or value of the subject matter, again, not to a cause of action but to an action or suit before the Sessions Court while providing for the Sessions Court to have jurisdiction in excess of the value limit by written consent of the parties to the action or suit. Section 65(3) reads thus:

> When the parties to an action or suit which, if the amount in dispute or value of the subject-matter thereof did not exceed the limit of the jurisdiction, would be cognizable by a Sessions Court, have entered into an agreement in writing that the Sessions Court shall have jurisdiction to try the action or suit, the Sessions Court shall have jurisdiction to try the same, although the amount of the subject-matter thereof may exceed the value limit of jurisdiction.

Section 66(1) deals with matters of defence and counterclaim in relation to an action or suit in the Sessions Court and it does state, *inter alia*, in relation to a counterclaim, that "no-relief" exceeding that which the Court has jurisdiction to award shall be given to the defendant upon the counterclaim. The counterclaim, as we know from practice and law, need not relate to or be in anyway connected with the plaintiff's claim or arise out of the same transaction (see Subordinate Court Rules, O. 8 r. 2(1)). And although the counterclaim of a defendant to an action may conceivably arise from several causes of action nevertheless the Court cannot give relief "exceeding that which the Court has jurisdiction to award".

I now turn to s. 67. It clearly gives the option to the plaintiff to relinquish any portion of his claim "in order to bring the action or suit" (and note, not "the cause of action") within the jurisdiction of the Sessions Court with the rider that he shall not afterwards sue in respect of the portion so relinquished.

Going to s. 68, it does, as was previously pointed out, mention "cause of action". It disallows more than one action or suit being brought in respect of the same cause of action against the same party; there is however no prohibition against bringing several causes in one action or suit. And was pointed out earlier O. 8 of the Subordinate Court Rules allows for joinder of causes of action.

There is nothing in ss. 66, 68 and 69 which detracts from the conclusion that the value limit that is spelt out in s. 65(1) relates to one action or suit before the Sessions Court no matter how many causes of action arise in the action.

My view is that irrespective of whether there is one plaintiff or several plaintiffs or one cause of action or several causes of action in one action or suit before the Sessions Court the total amount that the Sessions Court may award in respect of all the plaintiffs and all causes of action joined in that one action or suit cannot exceed the value limit of RM100,000.

I do not think s. 65(1) creates serious difficulties. I think that, generally, litigants can with a high degree of accuracy anticipate what the value of an award will be. Resort could be had to s. 65(3) of the Act to give the Sessions Court jurisdiction where the value limit of its jurisdiction is expected to be exceeded. Failing agreement the plaintiff may apply for the transfer of the action from the Sessions Court to the High Court or the may wish to file the action in the High Court itself. On the other hand several actions may be filed in the Sessions Court and the several action consolidated for trial under the provisions of O. 8 r. 18 of the Subordinate Court Rules.

I now come back to the present case. Acting in revision I remit the matter to the Judge of the Sessions Court for her to reduce proportionately her several awards to the three plaintiffs so that the total amount does not exceed RM100,000.

Also found at [1990] 1 CLJ 1170